



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mailed: JUL 27 2004

THM

Paper No. 14

In re application of
Martin Schallner et al.

Serial No. 09/532,144

Filed: March 31, 2000

For: LAYER SEQUENCE BUILT ON A SUBSTRATE
IN THIN-FILM TECHNOLOGY

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed August 7, 2003, for failure to timely provide formal drawings as indicated in the Notice of Allowability mailed January 29, 2002.

DECISION

Since petitioner asserts that a timely reply was submitted, the request qualifies as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request has merit.

Petitioner's evidence of timely filing includes a copy of the return postcard; date stamped by the office, indicating the Office in fact received the Formal Drawings.

Despite this evidence, the MPEP sets forth:

37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

In the instant case, the current petition was not received with the Office until more than a year after the mailing of the Notice of Abandonment. In view of this policy, the current petition is deemed untimely. Petitioner indicates that a timely petition was filed but due to error an incorrect serial number was provided to the Office, thus prohibiting consideration. However, no evidence of this earlier submission is provided.

Therefore, the Petition is **DISMISSED** until such time as petitioner provides sufficient explanation of the delay in filing the petition.

After mailing of this decision, the case will be returned to the File Depository.



Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743